

AMENDED IN SENATE MAY 4, 2009
AMENDED IN SENATE APRIL 13, 2009
AMENDED IN SENATE MARCH 31, 2009

SENATE BILL

No. 694

Introduced by Senator Correa

February 27, 2009

An act to add Chapter 1.9 (commencing with Section 21990) to Part 3 of Division 2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 694, as amended, Correa. Public contracts: public works: competitive bidding. *bidding: legislative intent.*

Existing law sets forth the requirements for the solicitation and evaluation of bids and the awarding of contracts by public entities for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement.

This bill would ~~set forth requirements for the solicitation and evaluation of bids, and the awarding of contracts for the erection, construction, alteration, repair or addition to any work of improvement, estimated to cost more than \$25,000, that is not otherwise required to be performed under a competitively bid contract, or is exempt from competitive bidding requirements, and that is owned by, intended to be conveyed to, or financed by taxes, assessments, or bonds of, a public entity other than a state entity, as specified~~ *declare the intent of the Legislature to enact subsequent legislation that would address issues relating to the competitive bidding process for public contracts, and would make legislative findings and declarations in that regard.*

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 SECTION 1. *The Legislature finds and declares the following:*

2 (a) *That open, competitive bidding has proven to provide*
3 *construction services to the people of California at lower cost and*
4 *has protected taxpayers from the evils of favoritism, fraud, and*
5 *corruption in the awarding of public contracts.*

6 (b) *This act is not intended to interfere with the operation of*
7 *any statutes, charter provisions, or ordinances that prescribe*
8 *competitive bidding, or that specifically exempt contracts from*
9 *competitive bidding by prescribing some other mode of*
10 *procurement.*

11 SEC. 2. *It is the intent of the Legislature to enact subsequent*
12 *legislation that would address issues relating to the competitive*
13 *bidding process for public contracts.*

14 ~~SECTION 1. Chapter 1.9 (commencing with Section 21990)~~
15 ~~is added to Part 3 of Division 2 of the Public Contract Code, to~~
16 ~~read:~~

17
18 ~~CHAPTER 1.9. OTHER PUBLIC WORKS OF IMPROVEMENT~~

19
20 ~~21990. This chapter shall apply to the erection, construction,~~
21 ~~alteration, repair, or addition to any work of improvement estimated~~
22 ~~to cost more than twenty-five thousand dollars (\$25,000) that is~~
23 ~~not otherwise required to be performed under a competitively bid~~
24 ~~contract, or is otherwise specifically exempt from competitive~~
25 ~~bidding requirements, by state law, or by the charter or an~~
26 ~~ordinance of a city, city and county, or county, when the work of~~
27 ~~improvement meets any of the following criteria:~~

1 ~~(a) The work of improvement is owned by a public entity. For~~
2 ~~the purposes of this chapter, public entity shall have the same~~
3 ~~meaning as defined in Section 1100, but shall exclude a state entity.~~

4 ~~(b) The work of improvement is intended to be conveyed to a~~
5 ~~public entity within five years of completion of the work of~~
6 ~~improvement.~~

7 ~~(c) The work of improvement is financed in substantial part by~~
8 ~~money derived from taxes or assessments of, or bonds sold by or~~
9 ~~guaranteed by, any public entity.~~

10 ~~21991. A notice inviting bids for the project shall be published~~
11 ~~at least once a week for two consecutive weeks or more, with the~~
12 ~~last publication no less than 10 calendar days before the date of~~
13 ~~opening the bids.~~

14 ~~(a) The notice shall be published in a newspaper of general~~
15 ~~circulation, printed and published in the county where the project~~
16 ~~is located, or if the project is located in more than one county, in~~
17 ~~a newspaper in the county where the major portion of the work is~~
18 ~~to be done.~~

19 ~~(b) The notice shall distinctly describe the project, state the date,~~
20 ~~time, and place for the receipt and opening of sealed bids, and note~~
21 ~~where plans and specifications for the project can be obtained.~~

22 ~~21992. (a) No bids shall be accepted after the time stated in~~
23 ~~the public notice for the receipt and opening of bids, and any bid~~
24 ~~tendered after that time shall be returned, unopened, to the person~~
25 ~~who tendered it. On the day stated in the public notice for the~~
26 ~~receipt and opening of bids, all bids shall be publicly opened and~~
27 ~~announced.~~

28 ~~(b) All bids shall be made available during normal business~~
29 ~~hours for inspection and copying by any person at the place where~~
30 ~~bids were opened. Bids shall be available for inspection and~~
31 ~~copying for 90 days after the opening of bids.~~

32 ~~21993. A public entity may reject all bids if all of the following~~
33 ~~apply:~~

34 ~~(a) Cogent and compelling reasons to reject all bids exist.~~

35 ~~(b) Rejecting all bids is in the best interest of the public entity~~
36 ~~involved.~~

37 ~~(c) Rejecting all bids will not result in treating any of the bidders~~
38 ~~in an unfair or unequal manner.~~

1 ~~21994. The successful bidder shall provide appropriate bonds~~
2 ~~to the public entity to insure the faithful performance of the contract~~
3 ~~and the payment of subcontractors and suppliers.~~

4 ~~21995. (a) The contract shall be awarded to the responsible~~
5 ~~bidder who submits the lowest responsive bid.~~

6 ~~(b) All contracts under this chapter shall comply with Chapter~~
7 ~~1 (commencing with Section 1720) of Part 7 of Division 2 of the~~
8 ~~Labor Code.~~

9 ~~SEC. 2. The Legislature hereby finds and declares all of the~~
10 ~~following:~~

11 ~~(a) That open, competitive bidding has proven to provide~~
12 ~~construction services to the people of California at lower cost and~~
13 ~~has protected taxpayers from the evils of favoritism, fraud, and~~
14 ~~corruption in the awarding of public contracts. This act is not~~
15 ~~intended to interfere with the operation of any statutes, charter~~
16 ~~provisions, or ordinances that prescribe competitive bidding or~~
17 ~~specifically exempt contracts from competitive bidding by~~
18 ~~prescribing some other mode of procurement.~~

19 ~~(b) That the awarding of contracts for the erection, construction,~~
20 ~~alteration, repair, or addition to any work of improvement that is~~
21 ~~not otherwise required to be performed under a competitively bid~~
22 ~~contract, or is exempt from competitive bidding requirements, and~~
23 ~~that is owned by, intended to be conveyed to, or financed by taxes,~~
24 ~~assessments, or bonds of, a public entity other than a state entity,~~
25 ~~as described in Chapter 1.9 (commencing with Section 21990) of~~
26 ~~Part 3 of Division 2 of the Public Contract Code, as added by~~
27 ~~Section 1 of this act, is a matter of statewide concern, and not a~~
28 ~~municipal affair, as that term is used in Section 5 of Article XI of~~
29 ~~the California Constitution.~~

30 ~~SEC. 3. If the Commission on State Mandates determines that~~
31 ~~this act contains costs mandated by the state, reimbursement to~~
32 ~~local agencies and school districts for those costs shall be made~~
33 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
34 ~~4 of Title 2 of the Government Code.~~